

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1745 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1-5 - No

ASHABHAI LAKHABHAI VAGHELA

Versus

BUDHABHAI S/O SURABHAI NAGJIBHAI JHALA

Appearance:

MR HM PARIKH for Petitioners

MR AKIL KURESHI for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 01/05/98

ORAL JUDGEMENT

Heard learned counsel for the parties. The learned 4th Extra Assistant Judge, Kheda at Nadiad by the impugned order dated 28.11.1997 directed the parties to maintain status quo with respect to the suit property which is challenged in this revision. The say of the plaintiff-petitioners is that they are bona fide purchasers of the suit property. They have purchased the

property by registered sale deed from the father of the defendant-respondent. It is also stated that they are in possession of the land. A reference has also been made to certain compromise in the year 1990. Mr. Akil Quereshi says that there is prima facie a case that the property is an ancestral property. Thus the defendant has right in the said property. The compromise of the year 1990 is denied. He says that he is in possession of plot No. 1305 and 1328. Mr. Parikh referring to the decision of the apex court in the case of AMRIT LAL VS. JAYANTILAL reported in AIR 1960 SC 964 has contended that even if the property is to be ancestral property of the father the defendant has right to say of the property. I cannot enter into this controversy at this stage. Suffice it to say that there is a triable issue on the question as to whether the property is ancestral property and if it is so as to whether the same is owned by the father of the defendant alone is legal. Thus, in my view, the order of the learned judge directing the parties to maintain status quo is just and proper. The said order does not call for any interference by this court in exercise of power under Section 115 of C.P.C. It is however made clear that as the say of the defendant is that he is in possession of plot No. 1305 and 1328. Status quo shall be maintained only with respect to the said land. The revision application is accordingly rejected. Interim relief vacated. Notice is discharged.

00000

pkn.